IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE G.BHAVANI PRASAD

WRIT PETITION No.25682 OF 2006

Between:

M/s.Lokesh Brick Industries,
Tirupathi Road, Muthiruval,
Puthalapattu Mandal, Chittoor District,
Rep. by its Proprietor Mr.R.Ramamurthy Reddy.

..... PETITIONER

AND

The Commercial Tax Officer-II,
Chittoor, Chittoor District,
And others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
G.BHAVANI PRASAD

WRIT PETITION No.25682 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

The petitioner is a proprietary concern and a registered dealer under the APGST Act carrying on business in manufacture and sale of Clay Bricks. For the assessment year 2003-2004, the petitioner's assessment was completed by the concerned Assistant Commercial Tax Officer by his order dated 19.06.2004. Subsequently, an inspection was conducted by the Regional Vigilance and Enforcement Officer, Tirupathi, as a consequence of which the second respondent made re-assessment of the petitioner's liability for tax in respect of the above-mentioned assessment year and came to the conclusion that there was a suppression of turn over to the tune of approximately Rs.52,87,500/-. On such conclusion, the second respondent issued notice dated 31.03.2005 proposing to levy penalty for suppression of turn over, and eventually by proceedings dated 01.07.2006 passed an order levying penalty of three times of tax, invoking power under Section 14(8)(a) of the APGST Act, on the ground that the petitioner escaped assessment by virtue of the alleged suppression of the turn over. Aggrieved by the same, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal. Pending the said appeal, the petitioner filed an application before the third respondent seeking stay of recovery of the penalty. The said application was rejected by the third respondent by his order dated 29.11.2006. Hence the present writ petition with

a prayer as follows:

> **"… Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in rejecting the stay application filed by the petition by the impugned proceedings in CCT's Ref.No.LIII(3)/899/2006 dated 29.11.2006 as illegal, arbitrary, high handed and contrary to the Provisions of the Act and set aside the same and restrain the 1st respondent from taking any coercive steps for recovery of the disputed penalty amount of Rs.12,69,000/- for the assessment year 2003-04 under the APGST Act pending disposal of the appeal by the Hon'ble Sales Tax Appellate Tribunal and pass …"**

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself by directing the respondents not to take any coercive steps for recovery of penalty pursuant to the order of the second respondent dated 01.07.2006, on condition the petitioner deposits 30% of the penalty within a period of six weeks from today.

With the above direction, the writ petition is accordingly disposed of.

JUSTICE J.CHELAMESWAR

JUSTICE G.BHAVANI PRASAD

15TH DECEMBER, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
G.BHAVANI PRASAD

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WRIT PETITION No.25682 OF 2006

(Per Sri Justice J.Chelameswar)

15th DECEMBER, 2006